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SERVICE DATE - SEPTEMBER 24, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 400X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY  
–ABANDONMENT EXEMPTION–  
IN FRANKLIN AND WEBSTER COUNTIES, NE

Decided: September 23, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 19.8-mile line of railroad between milepost 216.95 near Franklin, NE, and milepost 197.15 near Red Cloud, NE, in Franklin and Webster Counties, NE. Notice of the exemption was served and published in the Federal Register on March 5, 2003 (68 FR 10575-76).

By decision and notice of interim trail use or abandonment (NITU) served April 3, 2003, the proceeding was reopened and a 180-day period was authorized for the Nebraska Trails Foundation, Inc. (NTF), and the Lower Republican River Visionaries of Red Cloud to negotiate an interim trail use/rail banking agreement with BNSF for the entire line pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The trail use negotiation period under the NITU was scheduled to expire on September 30, 2003, but has been extended to September 24, 2004, by decisions served September 29, 2003, and March 26, 2004.<sup>1</sup>

On September 21, 2004, NTF filed a request for a 90-day extension of the trail use negotiating period. NTF states that it and BNSF are actively negotiating a final contract and agreement, but require additional time to arrive at final language on a couple of issues, and to circulate the final agreement for necessary approvals and signatures. In a response filed by facsimile on September 22, 2004, BNSF concurs in the request to extend the trail use negotiating period.

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<sup>1</sup> The April 3, 2003 decision also imposed a public use condition, which expired on October 1, 2003, and two environmental conditions, consisting of the U.S. Fish and Wildlife Service condition and a historic preservation condition. The historic preservation condition was removed by decision served May 8, 2003. The other environmental condition imposed in the April 3, 2003 decision remains in effect.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trails and rail banking consistent with the Trails Act.<sup>2</sup> Accordingly, the NITU negotiating period will be extended to December 23, 2004.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. NTF's request to extend the NITU negotiation period is granted.
2. The negotiating period under the NITU is extended to December 23, 2004.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary

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<sup>2</sup> See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).